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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 DURWOOD J. MOORE,

12 Petitioner,

13 v.

14 THE STATE OF WASHINGTON,

15 Respondent.

Case No. C09-5386FDB-KLS

REPORT AND
RECOMMENDATION

Noted for October 2, 2009

16 Petitioner is a state prisoner currently incarcerated at the United States Penitentiary, located in
17 Atwater, California. Petitioner has filed a petition for writ of federal habeas corpus relief (Dkt. #1) and is
18 proceeding pro se in this matter. This matter is before the Court on petitioner's failure to comply with the
19 Court's order to show cause directing him to file an amended petition. (Dkt. #3). After a review of the
20 record, the undersigned submits the following report and recommendation, recommending the Court deny
21 the petition for failure to comply with the Court's order, and thus for failure to prosecute this matter.

22 DISCUSSION

23 In its order to show cause, the Court informed plaintiff that he had failed to name the proper
24 respondent in his original petition, and ordered him to file by no later than August 15, 2009, an amended
25 petition naming the proper respondent. To date, however, petitioner has not done so.

26 CONCLUSION

27 Because petitioner has failed to respond to the Court's order to show cause (Dkt. #3), the Court
28 should dismiss this case without prejudice for failure to prosecute.

1 Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rules of Civil Procedure ("Fed. R. Civ. P.") 72(b),
2 the parties shall have ten (10) days from service of this Report and Recommendation to file written
3 objections thereto. See also Fed.R.Civ.P. 6. Failure to file objections will result in a waiver of those
4 objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit
5 imposed by Fed. R. Civ. P. 72(b), the clerk is directed to set this matter for consideration on **October 2,**
6 **2009**, as noted in the caption.

7 DATED this 8th day of September, 2009.

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11 Karen L. Strombom
12 United States Magistrate Judge
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